

FINAL REPORT

LEGISLATIVE COUNCIL INTERIM COMMITTEE

**STATE EMPLOYEE COMPENSATION
2005**

**STATE EMPLOYEE COMPENSATION
INTERIM COMMITTEE
HCR 22 (2005)**

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**Legislative Council Interim Committee
State Employee Compensation
2005**

FINAL REPORT

Charge

This interim committee was authorized by House Concurrent Resolution No. 22 which directed the committee to review the state's compensation system and to report its findings, recommendations and any proposed legislation to the Second Regular Session of the Fifty-eighth Idaho Legislature.

Meetings

The committee held five meetings in Boise on July 25 & 26, August 29 & 30, October 25, November 28 and December 21, 2005.

State Employee Compensation

Background Information

Current law states that "it is hereby declared to be the intent of the legislature that an employee may expect to advance in the salary range to the labor market average rate." (Idaho Code Section 67-5309C) Unfortunately, compliance with this legislative intent has all but collapsed due to a lack of consistent and adequate funding. On average, the state's base salaries are now critically non-competitive when compared with the compensation practices in public and private sectors. Market pay is moving 3.7% annually, while the annual average ongoing funding provided by the state since fiscal year 2000 is 1.86%. The state falls further behind market rates each year that it funds less than the market is moving, the effect of which is manifested in annual salary surveys conducted by the Division of Human Resources, which found the state lagging the market by an average of 10% in 2000 and now by 16.5% in 2005. The Division of Human Resources also estimates that "over two thirds of the state's positions have salary ranges below market, some by as much as 50%." (Idaho State Employee Compensation Report & Recommendations, 2005, Division of Human Resources) Consequently, many state agencies and institutions are experiencing serious difficulties in retaining and recruiting qualified employees.

In the area of retention, the practical reality is that the state is often a training ground for individuals in law enforcement, engineering, and other competitive occupations. The state spends a significant amount of time and money in getting these individuals trained and certified only to have them hired away by local governments or the private sector. Even with less competitive occupations, the general uncertainty in future salary advancement has a corrosive effect on retention.

In the area of recruitment, positions often cannot be filled because most qualified potential applicants are already earning more than the state is offering. In order to be competitive, employers sometimes have to bring in new employees at a salary near or even

higher than that of current employees in the same position which, understandably, causes morale problems in the workforce. Alternatively, employers are faced with recruiting from those at the bottom of the labor pool or hiring inexperienced workers because they are less able to command market rates.

Benefit surveys find that while the state's benefit package is competitive, it "does not exceed the market average packages anywhere near the levels required to compensate for the low base salaries and lack of funding for salary advancement." (Idaho State Employee Compensation Report & Recommendations, 2005, Division of Human Resources)

Agencies and institutions provided significant testimony about the urgent need for additional funding for base salaries, and a desire for additional flexibility to address the pressing compensation needs surrounding retention and recruitment. The committee worked with a group of human resource directors from several agencies to explore these and other human resource management issues and to refine recommendations.

Recommendations

The committee voted to recommend that two pieces of legislation be introduced in the legislature in 2006.

RSMLI479 repeals and re-enacts three existing sections of Idaho Code to establish a State Employee Compensation Philosophy, a state Compensation Plan, and adds four specific components which must be addressed by the Division of Human Resources and the Governor in their respective proposed changes for salaries and benefits and the funding thereof. If the legislature chooses to accept, modify or reject the governor's recommendation it may do so by concurrent resolution, but the resolution must also address the four components.

RSMLI480 amends current law as it relates to bonuses and employee suggestion awards, and authorizes a number of other pay delivery options to give agencies and institutions some flexibility to help facilitate retention and recruitment of employees. It amends the budget laws to allow employee suggestion awards to be paid from the area in which savings were realized. It codifies the payment of moving expenses. It amends current overtime laws to prohibit executive employees from earning compensatory time or earned administrative leave. It amends current vacation leave laws to increase the minimum vacation leave for professional and administrative employees from 12 to 15 days per year, and the minimum for executive employees from 12 to 25 days per year. Finally, it authorizes the Joint Finance Appropriations Committee to limit the amount of personnel costs which can be transferred to cover operating expenses or capital outlay.

The committee also voted to recommend the following:

(1) The administrator of the Division of Human Resources, department directors and institution executives should meet to discuss delegated authority and present consensus legislation.

(2) Newly hired employees should become eligible for health insurance benefits on the first of the month following the date of hire.

(3) The Change in Employee Compensation Committee should examine the issue of increasing the maximum long term disability benefit and report its findings and recommendations to the House and Senate Commerce & Human Resources Committees.

Proposed Legislation

RSMLI479

AN ACT

Relating to the state personnel system; repealing section 67-5309A, Idaho code; amending chapter 53, title 67, Idaho code, by the addition of a new section 67-5309A, Idaho code, to provide a state employee compensation philosophy; repealing section 67-5309B, Idaho code; amending chapter 53, title 67, Idaho code, by the addition of a new section 67-5309B, Idaho code, to establish the Idaho compensation plan; repealing section 67-5309C, Idaho code; and amending chapter 53, title 67, Idaho code, by the addition of a new section 67-5309C, Idaho code, to provide for specified annual surveys, reports and recommendations.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5309A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5309A, Idaho Code, and to read as follows:

67-5309A. State employee compensation philosophy. (1) It is hereby declared to be the intent of the legislature of the state of Idaho that the goal of a total compensation system for state employees shall be to fund a competitive employee compensation and benefit package that will attract qualified applicants to the workforce; retain employees who have a commitment to public service excellence; motivate employees to maintain high standards of productivity; and reward employees for outstanding performance.

(2) The foundation for this philosophy recognizes that state government is a service enterprise in which the state workforce provides the most critical role for Idaho citizens. Maintaining a competitive compensation system is an integral, necessary and expected cost of providing the delivery of state services and is based on the following compensation standards:

- (a) The state's overall compensation system, which includes both a salary and a benefit component, when taken as a whole shall be competitive with relevant labor market averages.
- (b) Advancement in pay shall be based on job performance and market changes.
- (c) Pay for performance shall provide faster salary advancement for higher performers based on a merit increase matrix developed by the division of human resources.
- (d) All employees below the state's mid-point market average in a salary range who are

meeting expectations in the performance of their jobs shall move through the pay range toward the mid-point market average.

(3) It is hereby declared to be legislative intent that regardless of specific budgetary conditions from year to year, it is vital to fund necessary compensation adjustments each year to maintain market competitiveness in the compensation system. In order to provide this funding commitment in difficult fiscal conditions, it may be necessary to increase revenues, or to prioritize and eliminate certain functions or programs in state government, or to reduce the overall number of state employees in a given year, or any combination of such methods.

SECTION 3. That Section 67-5309B, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5309B, Idaho Code, and to read as follows:

67-5309B. Idaho compensation plan. (1) The administrator of the division of human resources shall establish benchmark job classifications and shall assign all classifications to a pay grade utilizing the Hay profile method in combination with market data. Pay grades established or revised by the administrator shall appropriately weigh Hay points and market data to ensure internal equity and market equity within the classified service.

(2) It shall be the responsibility of each department director to prepare a department salary administration plan and corresponding budget plan that supports the core mission of the department and is consistent with the provisions of section 67-5309A, Idaho Code.

(3) Advancement in pay shall be based on performance and market changes and be provided in a variety of delivery methods, including ongoing increases, temporary increases and market related payline moves. Market related payline moves may advance all eligible employees as well as the structure to avoid compression in the salary system.

(4) Pay for performance shall provide faster salary advancement for higher performers based on a merit increase matrix developed by the division of human resources. Such matrix shall be based upon the employee's proximity to the state mid-point market average, and the employee's relative performance. Such matrix may be adapted by each agency to meet its specific needs when approved by the division of human resources.

(5) No employee shall advance in a salary range without a performance evaluation on file certifying that the employee meets the performance criteria of the assigned position.

(6) Each employee's work performance shall be evaluated through a format and process approved by the department and the division of human resources. The employee shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion, and thereafter be evaluated after each two thousand eighty (2,080) hours of credited state service. Employees may be eligible for advancement in pay if certified as meeting the performance requirements of this section. However, such in-grade advancement not be construed as a vested right. The department director shall designate in writing whether such in-grade advancement is temporary, conditional or permanent. It shall be the specific responsibility of the employee's immediate supervisor to effect the evaluation process. Such evaluation shall be approved by the department director or the director's designee.

(7) All supervisors who evaluate state employees shall receive training in the evaluation format and process to assure fairness and consistency in the evaluation process.

(8) Notwithstanding any other provision of Idaho Code, it is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees of like classification and pay grade allocation shall be treated in a substantially similar manner with reference to personnel benefits.

SECTION 5. That Section 67-5309C, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5309C, Idaho Code, and to read as follows:

67-5309C. Annual surveys, reports and recommendations. (1) The administrator of the division of human resources shall conduct or approve annual salary and benefit surveys within relevant labor markets to determine salary ranges and benefit packages that represent competitive labor market average rates and benefits provided by private industry and other governmental units.

(2) A report of the results of the annual salary and benefit surveys and recommendations for changes to meet the requirements of section 67-5309A, Idaho Code, together with their estimated costs of implementation, shall be submitted to the governor and the legislature not later than the first day of December of each year. The recommendation shall include, at a minimum, four components to address the compensation philosophy described in section 67-5309A, Idaho Code, and shall include specific funding recommendations for each component:

(a) A recommendation for market related changes necessary to address system wide structure adjustments to stay competitive with relevant labor markets. Such recommendation may include a market related payline adjustment for all eligible employees, as well as the structure, to avoid compression in the salary system.

(b) A recommendation for market related changes necessary to address specific occupational inequities.

(c) A recommendation for a merit increase component to recognize and reward state employees in the performance of public service to the citizens of Idaho.

(d) A recommendation for any changes to the employee benefit package, including any adjustments to the overall design of the benefit package and/or employee contributions.

(3) The governor shall submit his own recommendations on proposed changes in salaries and benefits to the legislature prior to the seventh legislative day of each session. Such recommendation shall address, at a minimum, the four (4) components and subsequent funding for each component required in this section.

(4) The legislature may, by concurrent resolution, accept, modify or reject the governor's recommendations, but any such action by the legislature, at a minimum, shall address the four (4) components and subsequent funding of each component required in this section. The failure of the legislature to accept, modify or reject the recommendations prior to adjournment sine die shall constitute approval of the governor's recommendations, and such recommendations shall be

funded through appropriations provided by law. The administrator of the division of human resources shall implement necessary and authorized changes to salary and pay schedule by rule. The administrator of the department of administration shall implement necessary and authorized changes to benefits by rule.

RSMLI480

AN ACT

Relating to the state personnel system and nonclassified state officers and employees;

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-2109A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2109A. Use of unused sick leave. Upon separation from employment with the junior college district by retirement, in accordance with chapter 13, title 59, Idaho Code, or with chapter 1, title 33, Idaho Code, an employee shall be accorded credit for unused sick leave as provided in section 67-53393, Idaho Code. Each junior college district shall contribute to the sick leave account for the purposes of this section, as provided in subsection (32)(c) of section 67-53393, Idaho Code.

SECTION 2. That Section 59-1603, Idaho Code, be, and the same is hereby amended to read as follows:

59-1603. Conformity with classified positions. (1) To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. Temporary employees and agricultural inspectors referred to in subsections (n) and (p) of section 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided in section 59-1605, Idaho Code, vacation leave provided in section 59-1606, Idaho Code, nor holiday pay defined in subsection (15) of section 67-5302, Idaho Code, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the retirement board. Vacation and sick leave accruals, but not holiday pay, shall be awarded retroactively, if necessary, to the date such employees become eligible for retirement system membership.

(2) To the extent possible, each nonclassified position in the legislative department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications.

(3) The supreme court shall determine the schedules of salary and compensation for all officers and employees of the judicial department which are not otherwise fixed by law. To the extent possible, the supreme court shall adopt schedules which are compatible with the state's

accounting system. The judicial department may also maintain personnel records and files under such system as is ordered by the supreme court.

(4) The state board of education shall determine the schedules of salary and compensation, and prescribe policies for overtime and compensatory time off from duty, for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code, and which are not otherwise fixed by law. To the extent possible, the state board of education shall adopt schedules and policies which are compatible with the state's accounting system. The state board of education may also maintain personnel records and files under a system of its own, if approved by the state controller.

(5) Members of the legislature, the lieutenant governor, other officers whose salaries are fixed by law, and members of part-time boards, commissions and committees shall be paid according to law.

(6) Any schedule of salary and compensation, ~~if not the schedule prescribed by section 67-5309C(a), Idaho Code,~~ must be approved by the appointing authority and be communicated to the state controller in writing at least thirty (30) days in advance of the effective date of the schedule.

(7) In addition to salary increases provided by any compensation schedule adopted pursuant to paragraph (6) of this section, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted ~~a lump sum bonus~~ an award not to exceed ~~one~~ five thousand dollars (\$~~1~~5,000) in any given fiscal year based upon an affirmative certification of meritorious service. Exceptions to the ~~one~~ five thousand dollar (\$~~1~~5,000) limit provided in this section may be granted under extraordinary circumstances if approved in advance by the ~~state board of examiners~~ appointing authority. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all bonuses granted in the preceding fiscal year.

(8) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees holding permanent status, except those who are elected officials or whose salaries are fixed by law, may be granted ~~an lump sum bonus~~ award not to exceed ~~one~~ five thousand dollars (\$~~1~~5,000) in any given fiscal year based upon suggestions or recommendations made by the employee which resulted in taxpayer savings as a result of cost savings or greater efficiencies to the department, office or institution or to the state of Idaho in excess of the amount of the ~~bonus~~ award. Exceptions to the ~~one~~ five thousand dollar (\$~~1~~5,000) limit provided in this subsection may be granted in extraordinary circumstances if approved in advance by the ~~state board of examiners~~ appointing authority. The appointing authority shall as near as practicable utilize the criteria in conformance with rules promulgated by the division of human resources pursuant to section 67-5309D, Idaho Code. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all employee suggestion awards granted in the preceding fiscal year. Such report shall include any changes made as a direct result of an employee's suggestion and savings resulting therefrom.

(9) Each appointing authority, including the elective offices in the executive department, the legislative department, the judicial department, and the state board of education and the board of regents, shall comply with all reporting requirements necessary to produce the list of employee positions prescribed by section 67-3519, Idaho Code.

(10) The adjutant general, with the approval of the governor, shall prescribe personnel

policies for all officers and employees of the national guard which are not otherwise fixed by law. Such policies will include an employee grievance procedure with appeal to the adjutant general. The adjutant general shall determine schedules of salary and compensation which are, to the extent possible, comparable to the schedules used for federal civil service employees of the national guard and those employees serving in military status. Schedules adopted shall be compatible with the state's accounting system to the extent possible.

(11) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees holding permanent status, except those who are elected officials or whose salaries are fixed by law, may be granted award pay for recruitment or retention purposes upon completion of at least six (6) months of an achieved performance rating. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(12) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees holding permanent status, except those who are elected officials or whose salaries are fixed by law, may be granted other nonperformance related pay as provided in this subsection. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(a) Shift differential pay up to twenty-five percent (25%) of hourly rates depending on local market rates in order to attract and retain qualified staff.

(b) Geographic differential pay in areas of the state where recruitment and retention are difficult due to economic conditions and cost of living.

(13) In unusual circumstances, each appointing authority, including the elective offices in the executive branch, the legislative branch, the judicial branch, and the state board of education and the board of regents of the university of Idaho, may grant nonperformance related pay to employees, but in no case may exceed five percent (5%) of an employee's base pay. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(14) Each appointing authority, shall as near as practicable, utilize the criteria for reimbursement of moving expenses in conformance with section 67-5337, Idaho Code, and rules promulgated by the division of human resources pursuant thereto. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all moving reimbursements granted in the preceding fiscal year.

(15) Specific pay codes shall be established and maintained in the state controllers office to ensure accurate reporting and monitoring of all pay actions authorized in this section.

SECTION 3. That Section 59-1606, Idaho Code, be, and the same is hereby amended to read as follows:

59-1606. Vacation time. (1) Eligible nonclassified officers and employees in the executive department and in the legislative department shall accrue vacation leave and take vacation leave at the same rate and under the same conditions as is provided in sections 67-5334 and 67-5335, Idaho Code, for classified officers and employees.

(a) The state board of examiners shall adopt comparative tables and charts to compute

vacation time on daily, weekly, bi-weekly, calendar month and annual periods.

(2) Eligible nonclassified officers and employees in the judicial department shall accrue vacation leave as determined by order of the supreme court.

Leave policies established by the supreme court must be communicated to the state controller in writing at least one hundred eighty (180) days in advance of the effective date of the policies.

(3) The state board of education shall determine the vacation leave policies for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code. To the extent possible, the state board of education shall adopt policies which are compatible with the state's accounting system.

Any policy and procedures determined by the state board of education must be communicated to the state controller in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

SECTION 4. That Section 59-1607, Idaho Code, be, and the same is hereby amended to read as follows:

59-1607. Hours of work -- Overtime. (1) It is the policy of the legislature of the state of Idaho that all classified and nonclassified officers and employees of state government shall be treated equally with reference to hours of employment, holidays and vacation leave, except as provided in this chapter. The policy of this state shall not restrict the extension of regular work hour schedules on an overtime basis, which shall be the same for classified and nonclassified employees, in those activities and duties where such extension is necessary and authorized by the appointing authority.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible classified and nonclassified officers and employees.

(3) Classified and nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

(a) Elected officials; or

(b) Those included in the definition of section 67-5303(j), Idaho Code.

(4) Classified and nonclassified employees who are designated as executive, as provided in ~~section 67-5302, Idaho Code, who are designated as exempt under any other complete exemption in the federal law~~ fair labor standards act, and who are not included in the definition of subsection (3) of this section, shall be ineligible for compensatory time or cash compensation for overtime work; ~~but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis not to exceed two hundred forty (240) hours. Accrued compensatory time off earned under this section shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service. Unused compensatory time shall be forfeited on December 31, 2006.~~

(5) Classified and nonclassified officers and employees who are designated as administrative or professional as provided in ~~section 67-5302, Idaho Code, or who are~~

~~designated as exempt under any other complete exemption in the federal law fair labor standards act~~, and who are not included in the definition of subsection (3) of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified officers and employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(6) Classified and nonclassified officers and employees who are not designated as executive, administrative or professional as provided in ~~section 67-5302, Idaho Code, who are not designated as exempt under any other complete exemption in the federal law fair labor standards act~~, and who are not included in the definition of subsection (3) of this section, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

SECTION 5. That Section 67-3511, Idaho Code, be, and the same is hereby amended to read as follows:

67-3511. Transfer of legislative appropriations. (1) No appropriations made by the Idaho legislature may be transferred from one object code to another except with the consent of the state board of examiners upon application duly made by the head of any department, office or institution of the state (including the elected officers in the executive department and the state board of education). No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated, provided however, that employee suggestion awards made pursuant to sections 59-1603 and 67-5309C, Idaho Code, may be made from the object code in which the savings were realized.

(2) Legislative appropriations may be transferred from one program to another within an agency upon application duly made by the head of any department, office or institution of the state and approval of the application by the administrator of the division of financial management and the board of examiners provided the requested transfer is not more than ten per cent (10%) cumulative change from the appropriated amount for any program affected by the transfer. Requests for transfers above ten per cent (10%) cumulative change must, in addition to the above, be approved by legislative appropriation. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the legislature.

(3) All moneys appropriated to any agency of the state of Idaho for the purpose of capital

outlay shall be used for that purpose and not for any other purpose.

(4) The joint finance-appropriations committee may limit the amount of legislative appropriations for personnel costs which can be transferred to other object codes.

SECTION 6. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. Definitions. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the following criteria:

~~1.(a)~~ ~~(a)~~ Responsible office or nonmanual work directly related to the management policies of a department or section; or

~~(b)~~ ~~(b)~~ Responsible work that is directly related to academic instruction or training carried on in the administration of a school system or educational establishment; and

~~2.(b)~~ The employee must customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have the authority to make important decisions; and

~~3.(c)~~ The employee must:

~~(a)~~ Regularly assist a bona fide executive or administrative employee; or

~~(b)~~ Perform work under general supervision along specialized or technical lines requiring special training, experience or knowledge; or

~~(c)~~ Execute under only general supervision special assignments; and

~~4.(d)~~ The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

~~5.(e)~~ Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Department" means any department, agency, institution or office of the state of Idaho.

(9) "Disabled veteran" means an individual who has served on military duty in the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purposes of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States; and has been separated therefrom under honorable conditions; and has established the present existence of a service-connected disability; and is receiving compensation, disability retirement benefits, or pension under a public statute as administered by the department of veterans affairs or a military department.

(10) "Earned administrative leave" means hours which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) work week.

(11) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

~~1.(a)~~ An individual whose primary duty is management of a department, division or section; and

~~2.(b)~~ Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

~~3.(c)~~ Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

~~4.(d)~~ Who customarily and regularly exercises discretionary powers; and

~~5.(e)~~ Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

~~6.(f)~~ Final designation of a classified position as "executive" in this definition shall be made by the administrator.

(13) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the administrator.

(14) "Full-time employee" means any employee working a forty (40) hour work week.

(15) "Holiday" means the following:

January 1 (New Year's Day);

Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);

Third Monday in February (Washington's Birthday);

Last Monday in May (Memorial Day);

July 4 (Independence Day);

First Monday in September (Labor Day);
Second Monday in October (Columbus Day);
November 11 (Veterans Day);
Fourth Thursday in November (Thanksgiving);
December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to non-executive employees during which said employees shall be compensated as if they actually worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(18) "Normal work week" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(20) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter.

(21) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(22) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours.

(23) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party which sponsors candidates for election to political office.

(26) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

~~1.(a)~~ The employee's primary duty must be either:

~~(a)~~ Work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study; or

~~(b)~~ Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or

~~(c)~~ Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and

~~2.(b)~~ The employee must consistently exercise discretion and judgment; and

~~3.(c)~~ The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

~~4.(d)~~ The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established in section 67-5309C, Idaho Code.

~~5.(e)~~ Final designation of a classified position as "professional" within this definition shall be made by the administrator.

(28) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(29) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(30) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(31) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(32) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(33) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(34) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(35) "Veteran" means any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States department of

veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States, and who has been discharged under other than dishonorable conditions.

SECTION 7. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. Rules of the division of human resources and the personnel commission. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the division maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and

grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran as defined in section 65-506, Idaho Code, and the widow or widower of any war veteran as defined in section 65-506, Idaho Code, as long as he or she remains unmarried. Pursuant to section 65-506, Idaho Code, ten (10) points shall be added to the earned rating of any disabled veteran, the widow or widower of any disabled veteran as long as he or she remains unmarried or the spouse of any disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the ten (10) top ranking available eligibles plus the names of all individuals with scores identical to the tenth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the

employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.
2. Inefficiency, incompetency, or negligence in the performance of duties, or job performance that fails to meet established performance standards.
3. Physical or mental incapability for performing assigned duties.
4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.
5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.
6. Intoxication on duty.
7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.
8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.
11. Habitual pattern of failure to report for duty at the assigned place and time.
12. Habitual improper use of sick leave privileges.
13. Unauthorized disclosure of confidential information from official records.
14. Absence without leave.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing ~~for five percent (5%)~~ up to twenty-five percent (25%) shift differential pay based on local market practices.

(v) A rule to establish guidelines for awarding employee suggestion awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

(w) A rule to establish the reimbursement of moving expenses for a current or newly-hired state employee.

(x) A rule to allow, at the request of the hiring agency, temporary and acting appointment service time to count toward fulfilling entrance probationary requirements as established in section 67-5309(j), Idaho Code.

SECTION 8. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5309D, Idaho Code, and to read as follows:

67-5309D. Other pay delivery options. (1) In addition to pay increases authorized in section 67-5309B, Idaho Code, the department director may grant a classified employee holding permanent status bonus pay not to exceed five thousand dollars (\$5,000) in any given fiscal year based upon exemplary performance. Exceptions to the five thousand dollar (\$5,000) limit provided in this subsection (1) may be granted in extraordinary circumstances if approved in advance by the department director. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all bonuses granted in the preceding fiscal year.

(2) In addition to pay increases authorized in section 67-5309B, Idaho Code, the department director may grant a classified employee holding permanent status an award payment based upon suggestions or recommendations made by the employee which resulted in taxpayer savings as a result of cost savings or greater efficiencies to the department or to the state of Idaho in excess of the amount of the award, and in compliance with the rules for employee suggestion awards promulgated by the division of human resources. The award may be an amount up to

twenty-five percent (25%) of the amount determined to be the dollar savings to the state, but not in excess of five thousand dollars (\$5,000). Exceptions to the five thousand dollar (\$5,000) limit provided in this subsection (2) may be granted in extraordinary circumstances if approved in advance by the department director. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all employee suggestion awards granted in the preceding fiscal year. Such report shall include any changes made as a direct result of an employee's suggestion and savings resulting therefrom.

(3) In addition to pay increases authorized in section 67-5309B, Idaho Code, the department director may grant award pay to a classified employee holding permanent status for recruitment or retention purposes upon completion of at least six (6) months of achieving performance standards. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(4) In addition to pay increases authorized in section 67-5309B, Idaho Code, department directors may provide a classified employee holding permanent status other nonperformance related pay as provided in this subsection (4). Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(a) Shift differential pay up to twenty-five percent (25%) of hourly rates depending on local market rates in order to attract and retain qualified staff.

(b) Geographic differential pay in areas of the state where recruitment and retention of qualified staff is difficult due to economic conditions and cost of living.

(5) When necessary to obtain or retain qualified personnel in a particular classification, upon petition of the department to the administrator containing acceptable reasons therefore, a higher temporary pay grade may be authorized by the administrator which, if granted, shall be reviewed annually to determine the need for continuance.

(6) In unusual circumstances, with prior approval from the administrators of the division of human resources and the division of financial management, agencies may grant nonperformance related pay to employees, but in no case may exceed five percent (5%) of an employee's base pay. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(7) Specific pay codes shall be established and maintained in the state controllers office to ensure accurate reporting and monitoring of all pay actions authorized in this section.

SECTION 9. That Section 67-5226, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Sections 67-5328, 67-5329, 67-5330 and 67-5331, Idaho Code, be, and the same are hereby amended to read as follows:

67-5328. ~~Overtime compensation -- Eligibility~~ State policy - Overtime. (1) It is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees shall be treated substantially similar with reference to hours of employment. The policy of this state as declared in this act shall not restrict the extension of regular work hour schedules on an overtime

basis in those activities and duties where such extension is necessary and authorized, provided that overtime work performed under such extension is compensated for as hereinafter provided.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible classified officers and employees, subject to the restrictions of applicable federal law.

~~67-5329. Cash for overtime -- Compensatory time:~~

(13) Cash for overtime and compensatory time shall be paid based on the following criteria:

(a) Classified and nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

(ai) Elected officials; or

(bii) Those included in the definition of section 67-5303(j), Idaho Code.

(2b) Classified and nonclassified employees who are designated as executive, as provided in ~~section 67-5302, Idaho Code, who are designated as exempt under any other complete exemption in the federal law~~ fair labor standards act, and who are not included in the definition of subsection (13)(a) of this section, shall be ineligible for compensatory time or cash compensation for overtime work; ~~but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis not to exceed two hundred forty (240) hours. Accrued compensatory time off earned under this section shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service. Unused compensatory time shall be forfeited on December 31, 2006.~~

(3c) Classified and nonclassified employees who are designated as administrative or professional, as provided in ~~section 67-5302, Idaho Code, or who are designated as exempt under any other complete exemption in the federal law~~ fair labor standards act, and who are not included in the definition of subsection (13)(a) of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(4d) Classified employees who are not designated as executive, administrative or professional as provided in ~~section 67-5302, Idaho Code, who are not designated as exempt under any other complete exemption in the federal law~~ fair labor standards act, and who are not included in the definition of subsection (13)(a) of this section, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the

rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

~~67-5330. Rate of overtime compensation when paid in cash.~~

(4) Cash compensation for overtime, when paid, shall be at one and one-half (1 1/2) times the hourly rate of that officer's or employee's salary or wage, except for those employees whose positions fall within the definitions of executive, administrative or professional as stated in section 67-5302, Idaho Code, who will be paid at their regular hourly rate of pay as provided for in subsection 67-5329, Idaho Code (3) of this section.

~~67-5331. Overtime compensation -- When paid.~~

(5) Except as provided for in subsection 67-5329, Idaho Code (3) of this section, compensation for authorized overtime work shall be made at the completion of the pay period next following the pay period in which the overtime work occurred and shall be added to the regular salary payment.

SECTION 11. That Sections 67-5333 and 67-5339, Idaho Code, be, and the same are hereby amended to read as follows:

67-5333. Sick leave ~~computation~~. (1) Sick leave shall be computed as follows:

(a) The rate per hour at which sick leave shall accrue to classified officers and employees earning credited state service shall be at the rate represented by the proportion 96/2080. Sick leave shall accrue without limit, and shall be transferable from department to department.

(2b) Sick leave shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Sick leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave, but not when compensatory time or earned administrative leave is taken.

(3c) All accrued sick leave shall be forfeited at the time of separation from state service and no officer or employee shall be reimbursed for accrued sick leave at the time of separation, except as provided in subsection 67-5339, Idaho Code (2) of this section. If such officer or employee returns to credited state service within three (3) years of such separation, all sick leave credits accrued at the time of separation shall be reinstated, except to the extent that unused sick leave was utilized for the purposes specified in subsection 67-5339, Idaho Code (2) of this section.

(4d) Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned.

(5e) In cases where absences for sick leave exceed three (3) consecutive working days, the appointing authority may require verification by a physician or other authorized practitioner.

~~(6f)~~ If an absence for illness or injury extends beyond the sick leave accrued to the credit of the officer or employee, the officer or employee may be granted leave without pay.

(7g) The administrator shall prescribe additional requirements for sick leave for classified officers and employees on a part-time or irregular schedule, for maintaining sick leave records, for funeral leave, and such other applicable purposes as necessary.

~~67-5339. Use of unused sick leave.~~

~~(12)~~ Unused sick leave may be used as follows:

(a) Upon separation from state employment by retirement in accordance with chapter 13, title 59 or chapter 1, title 33, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. Upon separation from state employment by retirement in accordance with chapter 20, title 1, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 2000, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by subsection (2) of this section, whichever is the lesser, of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho public employee retirement board to pay premiums for such group health, accident, and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(2b) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(a) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be four hundred twenty (420) hours;

(b) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be four hundred eighty (480) hours;

(c) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be five hundred forty (540) hours; and

(d) Thereafter, the maximum unused sick leave which may be considered shall be six hundred (600) hours.

(3c) Each employer in state government shall contribute to a sick leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable

to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget. The state insurance fund and public health districts shall be considered employers in state government for purposes of participation under this section.

SECTION 12. That Sections 67-5334, 67-5335 and 67-5337, Idaho Code, be, and the same are hereby amended to read as follows:

67-5334. Vacation time ~~computation~~. (1) Vacation time shall be computed as follows:

(a) Vacation time shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Vacation leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave, but not when compensatory time or earned administrative leave is taken.

(2b) The rate per hour at which vacation leave shall accrue to eligible classified officers and employees earning credited state service who are covered and non-exempt under the federal fair labor standards act shall be at the rate represented by the proportion 96/2080 during the first 10,400 hours of credited state service; at the rate represented by the proportion 120/2080 during the second 10,400 hours of credited state service; at the rate represented by the proportion 144/2080 during the third 10,400 hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(c) Classified officers and employees earning credited state service and are defined as an exempt "professional," "administrative," or "computer worker" under the federal fair labor standards act shall be at the rate represented by the proportion 120/2080 during the first 10,400 hours of credited state service; at the rate represented by the proportion 144/2080 during the second 10,400 hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(d) Classified officers and employees earning credited state service and are defined as an exempt "executive" under the federal fair labor standards act shall be at the rate represented by the proportion 200/2080.

~~67-5335. Vacation time -- Eligibility -- Maximum time -- Right to annual vacation.~~

~~(12) Eligibility and use of vacation time shall be determined as follows:~~

~~(a) An appointing authority shall permit each officer or employee to take vacation leave to the extent such leave has accrued.~~

~~(2b) Vacation leave may be accrued and accumulated only as follows, unless amounts in excess of the permitted accumulations have been expressly authorized in writing by the board of examiners during unusual or emergency situations:~~

~~During the first ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of one hundred ninety-two (192) hours, employees classified as "executive" under the federal fair labor standards act may accrue and accumulate vacation leave to a maximum of two hundred (200) hours during this period;~~

~~During the second ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred forty (240) hours;~~

During the third ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred eighty-eight (288) hours;

After thirty-one thousand two hundred (31,200) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of three hundred thirty-six (336) hours.

(3c) Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated.

(4d) Vacation leave shall not be earned, accrued or accumulated during any pay period in which the maximum accruals and accumulations provided by this section have been met.

(5e) Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed by this section.

(6f) Vacation leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave. Vacation leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

(7g) With the approval of the appointing authority for both the transferring and receiving officer or employee, an officer or employee may transfer accrued vacation leave, up to a maximum of forty (40) hours per fiscal year, to another officer or employee for purposes of sick leave in the event the receiving officer or employee or a family member suffers from a serious illness or injury. The amount transferred shall be converted to sick leave. An officer or employee shall not be allowed to receive more than one hundred sixty (160) hours of transferred leave per fiscal year, and a transfer shall not occur until the receiving employee has exhausted all of his or her accrued sick and vacation leave. An officer or employee shall not be eligible to transfer vacation leave unless his or her balance exceeds eighty (80) hours, and in no event may an officer or employee transfer an amount of accrued leave which would result in an accrued balance of less than eighty (80) hours.

~~67-5337. Cash for unused vacation time.~~

(3) Upon separation from state employment and to the limits allowed by subsection 67-5335, Idaho Code (2) of this section, all classified officers and employees shall receive a lump sum payment for accrued but unused vacation leave at the hourly rate of pay of that officer or employee.

SECTION 13. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5337, Idaho Code, and to read as follows:

67-5337. Moving expense reimbursement. In order for the state to attract and retain professional staff, it may be necessary to defray normal intrastate and interstate moving expenses. The head of any department, office or institution of the state shall have the authority to decide whether to reimburse moving expenses for current or newly-hired state employees on a case-by-case basis up to ten percent (10%) of the employee's base salary or fifteen thousand dollars (\$15,000), whichever is less, and in compliance with rules for the reimbursement of moving expenses promulgated by the division of human resources. Exceptions to the maximum

moving expense reimbursement may be granted if approved in advance by the department director. Agencies shall submit a report to the division of financial management and the legislative services office by October 1 on all moving expense reimbursements granted in the preceding fiscal year.

SECTION 14. That Section 67-5342, Idaho Code, be, and the same is hereby amended to read as follows:

67-5342. Severance pay for state employees. Upon termination from state service, no classified or exempt employee shall be eligible for severance pay and no employer shall provide or pay severance pay to such an employee or former employee. As used in this section, "severance pay" shall mean money, exclusive of wages or salary, vacation leave payoff, compensatory time leave and earned administrative leave payoff, paid to a classified or exempt employee who resigns from state service of his own volition and not under duress.

LEGISLATIVE COUNCIL INTERIM COMMITTEE
ON STATE EMPLOYEE COMPENSATION

MINORITY REPORT
PARTIALLY DISSENTING TO THE CONCLUSIONS OF THE COMMITTEE

We, the undersigned Senators and Representatives, do respectfully, and partially, dissent from the conclusions of the Final Report of the Legislative Council Interim Committee on State Employee Compensation **to the extent that the legislation recommended in the conclusions fails to include a plan, with specific deadlines, for comprehensively adjusting state employees' compensation (taking into account both salary and benefits) to make that compensation competitive with relevant market averages.** We submit this Minority Report based on the following facts and conclusions:

1. Current law expressing legislative "intent" to pay state employees at labor market averages has been ignored and contradicted by years of inadequate funding. The Committee report proposes to substitute language expressing a legislative "philosophy" to provide compensation

competitive with relevant labor markets. Without a corresponding plan and commitment to progressively appropriate the funds necessary to match the words with action, the words are simply restating what is already in the law.

2. The State falls further below market averages each year it fails to fund employees' compensation at the market rate. The Division of Human Resources has recently stated

Disregarding the reality of annual increases in the labor market is comparable to someone opening a credit card account and not paying the bill in full. Initially the impact is not too noticeable, but over time the credit card bill increases, penalties are attached and the interest charged is increased, making it more and more difficult to get out from under this huge debt burden. **Using that analogy, the state has now entered the penalty and higher interest phase.**

Idaho State Employee Compensation Report & Recommendations, Idaho Division of Human Resources, December 1, 2005 (emphasis added).

Year after year, and despite record population growth and demand for services, legislative leaders and the Governor have responded to a tight economic climate by asking our public employees to do more with less. We know this is not working. Continued failure to address the compensation disparities in our state government is fiscally irresponsible and will only result in higher and higher costs to the state taxpayers and risk to the health and safety of our citizens.

3. Public employees are the dedicated servants who, among other things, police our highways, inspect our food, repair our highways, secure our prisons and teach our children. Investing in public services - and the employees who provide them - is one of the smartest choices we can make. The stakes are high. The quality public services that we've come to depend on - everything from clean air to safe bridges to health and human services - are seriously at risk without the resources to implement them.

Over the objection of the undersigned, the majority of the members of the Legislative Council Interim Committee on State Employee Compensation rejected a motion to include in the Committee's Final Report a recommendation that the Legislature adopt a plan with a specific schedule to bring state employees' compensation up to market rates. To render meaningful the statutory language being recommended by the Committee, it is imperative that such a plan and schedule be adopted and adhered to, and that is our recommendation.

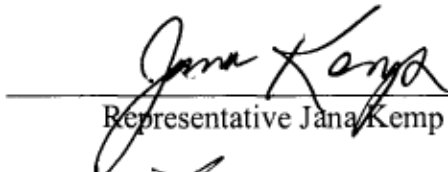
Dated this 10th day of January, 2006.



Senator Kate Kelly



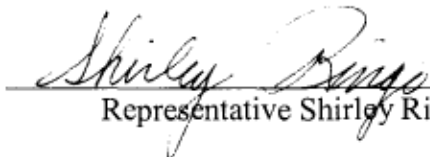
Senator Bert Marley



Representative Jana Kemp



Representative Anne Pasley-Stuart



Representative Shirley Ringo